IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
STEVE SICHUAN HE *et al.*
Appl. No.: 10/024,632
Filed: 12-19-2001
For: **NUCLEIC ACID MOLECULES ASSOCIATED WITH PLANT CELL PROLIFERATION AND GROWTH AND USES THEREOF**

Art Unit: 1638
Examiner: STUART F. BAUM
Atty. Docket: 38-21(51837)B

## Response to Restriction Requirement

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This paper is filed in response to the Office communication dated December 19, 2003. It is respectfully requested that the restriction be withdrawn or, if not, the election below be entered and that the application be examined on the merits.

**Remarks**

In the action dated December 19, 2003, the U.S. Patent and Trademark Office required restriction under 35 U.S.C. 121 from among the following groups:

I. Claims 1 and 2, drawn to an isolated nucleic acid encoding a polypeptide having two AP2 binding domains followed in the C-terminal by an amino acid subsequence, classified in class 536, subclass 23.1 for example.
II. Claim 3-6, drawn to an isolated nucleic acid molecule encoding a polypeptide,

classified in class 536, subclass 23.6 for example.

III. Claims 7-18, and 20-28, drawn to a recombinant DNA molecule comprising a polynucleotide encoding an ANT protein, methods of producing a plant with enhanced or increased organ size, classified in class 800, subclass 290 for example.

IV. Claims 19, drawn to a method for obtaining a nucleic acid molecule encoding an ANT-like polypeptide, classified in class 435, subclass 6 for example.

V. Claims 29-31, drawn to a process of making ethanol from a plant, classified in class 435, subclass 161, for example.

VI. Claims 32-34, drawn to a process of making animal feed from a plant transformed, classified in class 426, subclass 54 for example.

Applicants elect Group II consisting of Claims 3-6 and SEQ ID NO: 2 with traverse and respectfully request that the application be examined on the merits. Applicants believe that it would not create an undue burden on the Examiner to conduct a search encompassing all of the claims. Further, applicants reserve the right to file divisional applications to further prosecute non-elected groups. Applicants also argues that the restriction to a single sequence is unduly burdensome on the applicant, and with modern computer technology the examiner should be able to search a number of sequences within a group, especially a group of related sequences as described herein.

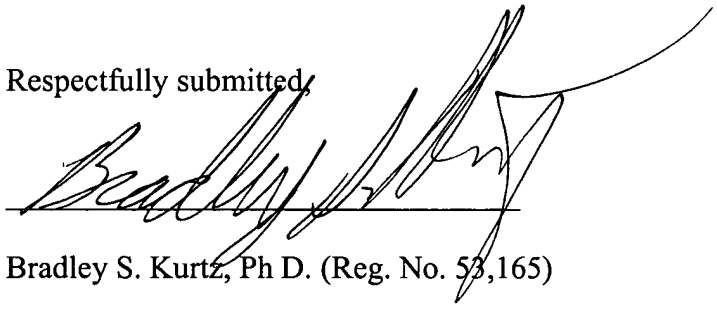
Applicants elect Group II and respectfully traverse the Examiner's restriction requirement for the other claims of the invention. Group II is drawn to an isolated nucleic acid molecule encoding a polypeptide. Group II contains sequences with the characteristics described in Group I, thus there is no basis for restriction between the two. Group III is drawn to plants that contain molecules of the prior groups, and characteristics thereof. Group IV is drawn to a method of for obtaining a molecule as described in the prior groups, I and II. Group V and VI are drawn to methods of use of the seeds of the plants of Group III. As can be seen these are a single related invention, inseparable into separate inventions as each invention claimed by the office is closely related to, and inseparable from, every other invention described herein. Claim 3 of group II is related to each other as described in group I, as noted above, and therefore this is an election between species, and not chemical compounds as stated by the examiner. The

applicant is also confused as to how the examiner separated the sequences into the groups, as all the genes described are ANT genes for purposes of the instant invention.

Applicants also respectfully point out that claims 3 and 4 of Group II and claim 7 of group III are almost identical and there seems to be no basis for restriction between the two.

Should any questions arise or if Applicants or Applicants' agent can facilitate the examination of this application, it is respectfully requested that the PTO contact the undersigned agent.

Respectfully submitted,



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